IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIRST DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

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WRIT PETITION NO : 22424 of 1994

Between:

Malpani (Katravath) Padmini, W/o. Katravath Krishna Naik.
H.No.39, SBI Colony, Ananthapur.

..... PETITIONER

AND

1 The Commissioner of Tribal Welfare, A.P., Hyderabad.
2 The A.P.Public Service Commission, Rep. Secretary.
Opp: Gandhi Bhavan, Hyderabad.
3 The Govt. of A.P., Rep. Secretary.
General Administration Dept., Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ order or direction more in the form of Writ of Mandamus declaring the proceedings of 1st respondent in 4195/30/93/TRI-VC-7 dated 21/09/1994 as illegal and consequently to set aside the same and grant such other relief or reliefs just and necessary in the circumstances of the case.

Counsel for the Petitioner: MR.T.S.HARNATH

Counsel for the Respondents: GP FOR SOCIAL WELFARE

The Court made the following:

ORDER:

The petitioner appeared for Group-I Service Examination (limited recruitment for Scheduled Tribes), conducted by the second respondent in the year 1990 and was provisionally selected for appointment as Deputy Collector subject to confirmation of her social status claim as belonging to the Scheduled Tribe. Along with her application, she submitted the certificate issued by the Mandal Revenue officer, Ananthapur, to the effect that she belongs to Scheduled Tribe community. The second respondent referred the Social Status Certificate of the petitioner for enquiry to the first respondent and the first respondent, after conducting enquiry, vide proceedings dated 21-09-1994 held that the petitioner did not belong to the Scheduled Tribe and as such was not entitled to be considered for appointment to Group-I Services of the Government of Andhra Pradesh under the Scheduled Tribe quota.

Sri T.S.Harnath, learned counsel for the petitioner, while admitting that the petitioner by birth belongs to the open category and that her claim for being a scheduled tribe is on account of her marriage to a person belonging to the Scheduled Tribe, fairly submits, that in the light of the settled legal position and several judgments of the Supreme Court, marriage to a person belonging to the Scheduled Tribe, does not entitle a person, who otherwise falls in the open category, to the benefits of reservation.

Sri T.S.Harnath, learned counsel for the petitioner contends that the grievance of the petitioner is that the first respondent in the report dated 21-09-1994 has made several observations which are unwarranted and that the impugned order dated 21-09-1994 has also touched on the social status of her children, (and grand-children yet to be born), through her marriage with a person belonging to the Scheduled Tribe.

The subject matter of enquiry, on a reference being made by the second respondent to the first respondent, is with regard to the issue as to whether the petitioner, on account of her marriage to a person belonging to the Scheduled Tribe, is entitled for the benefit of reservation or not ?

As stated supra, Sri T.S.Harnath, learned counsel for the petitioner, fairly concedes and in my view rightly so, that only on account of her marriage to a person belonging to the Scheduled Tribe, the petitioner, who belongs to the open category, is not entitled to the benefit of reservation. The other aspects, which are mentioned in the report of the first respondent, including the observations made in the said proceedings dated 21-09-1994, except to the extent it is held that the petitioner by marriage to a person belonging to the Scheduled Tribe is not entitled for the benefit of reservation, are wholly unnecessary and of no effect. The several questions raised in this regard by Sri T.S.Harnath, learned counsel for the petitioner, are left open.

The writ petition is accordingly dismissed. No order as to costs.

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01-07-2005

Prv

To

1 The Commissioner of Tribal Welfare, A.P., Hyderabad.
2 The Secretary, A.P.Public Service Commission,
Opp: Gandhi Bhavan, Hyderabad.
3 The Secretary, Govt. of A.P.,
General Administration Dept., Hyderabad.

4 Two CCs to G.P. for Social Welfare, High Court of Andhra

Pradesh, Hyderabad (OUT).

5 Two CD copies.